

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HENRY LEE SMITH, #482999,
EDWARD JAMES CROMER, #211902,
RONALD L. TURNER, #955090,
BRANDON JASON FLAKES, #603408,
KEVIS SARDIN, #104070,
JAMES PERRY, #637968,
JAMES JACKSON, #477836, and
ELIJAH MADLOCK, #515097,

Plaintiffs,

Case No. 1:17-cv-285

v.

Honorable Paul L. Maloney

DIANE WASHINGTON et al.,

Defendants.

ORDER

This is a civil rights action brought by eight state prisoners pursuant to 42 U.S.C. § 1983. On April 6, 2017, the Court issued an opinion and order (ECF Nos. 4) denying Plaintiffs Cromer and Jackson leave to proceed *in forma pauperis* because they were barred by the “three-strikes” rule of 28 U.S.C. § 1915(g). The Court required Plaintiffs Cromer and Jackson to pay their \$43.75 portion of the \$400.00 civil action filing fee within twenty-eight days, and the Court warned that their claims would be dismissed without prejudice should they fail to pay. The Court also warned that Plaintiffs would be responsible for payment of their \$43.75 portions of the filing fee in accordance with *In re Alea*, 286 F.3d 378, 380-81 (6th Cir. 2002).

More than twenty-eight days have elapsed since the Court’s order requiring Plaintiffs Cromer and Jackson to pay their portions of the filing fee, and neither Plaintiff has paid his \$43.75

portion of the fee. Plaintiffs have failed to comply with the order; therefore, dismissal of this action without prejudice is appropriate. Because the obligation to pay the full filing fee arises at the time the civil complaint is filed in the Court, Plaintiffs Cromer and Jackson remain liable for payment of their \$43.75 portions of the civil action filing fee despite the dismissal of their claims. *See In re Alea*, 286 F.3d at 381. Not to require payment of the filing fee would permit prisoners subject to the three-strikes rule to continue to file frivolous civil complaints without financial consequence. *Id.* Accordingly, the agency having custody of Plaintiffs Cromer and Jackson shall collect their \$43.75 portions of the civil action filing fee and remit the funds to the Clerk of this Court. The check or money order shall be payable to “Clerk, U.S. District Court” and must indicate the case number in which the payment is made.

Therefore,

IT IS ORDERED that the agency having custody of Plaintiffs Cromer and Jackson shall collect their \$43.75 portions of the civil action filing fee and remit the funds to the Clerk of this Court.

IT IS ALSO ORDERED that for the same reasons that the Court dismisses the action, the Court discerns no good-faith basis for an appeal. *See* 28 U.S.C. § 1915(a)(3); *McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). Further, should either Plaintiff appeal this decision, he must pay the \$505.00 appellate filing fee in a lump sum, because he is prohibited from proceeding *in forma pauperis* on appeal by 28 U.S.C. § 1915(g).

Dated: May 25, 2017

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge